Secrt. IL-37—100,000—21-5-52.

(6)

Home (1950) Department.

MS SERIES.

G.O. No. 2355

Dated 22-5-50

[Despatch Abstract.]

Motor Vehicles-Offences under the Motor Vehicles Act and Rules-Executive action by Transport Authorities for offences in cases in which prosecutions are launched or proposed to be launched-Instructions issued.

GOVERNMENT OF MADRAS

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Abstract

Motor Vehicles-Offences under the Motor Vehicles Act and Rules Executive action by Transport Authorities for offences in cases in which prosecutions are launched or proposed to be launched- Instructions Issued.

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HOME DEPARTMENT

G.O.Ms.No.2355 Dated, 22nd May, 1950

Read the following:

From the District Magistrate, Cuddapah, Letter, dated 4.2.1950.

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ORDER:

The District Magistrate, Cuddapah, has brought to the notice of the Government a case in which a conductor who was charged under section 112 of the Motor Vehicles Act, read with rule 218(1) of the Madras Motor Vehicles Rules, for the offence of overloading a bus was acquitted by a Magistrate on the ground that the licensing authority had already punished the conductor by suspending his licence for a period of one month for the same offence under rule 242 of the Madras Motor Vehicles Rules. The District Magistrate has in this connection raised the question whether it is proper for the licensing authority to take executive action during the pendency of a prosecution in respect of the same matter. The District Magistrate has pointed out that certain anomalies and difficulties may arise when the executive authority and the Court exercise the same power in respect of the same offence under two different provisions viz., rules 242 and 244 of the Madras Motor Vehicles Rules and that it will be against equity if a person is punished for the same offence by two separate authorities.

2. The powers of the executive authority and of the Court in the matter of suspension or cancellation of licences, permits etc., under the provisions of the Motor Vehicles Act and Rules as for instance under rule 242 and 244 of the Madras Motor Vehicles Rules are co-extensive and prosecution in a court of law for an offence does not preclude executive action under the rules in respect of the same offence. The difficulties pointed out by the District Magistrate in his letter cited are incidental to the existence of two concurrent provisions for the imposition of the same penalty. It will not also be desirable to lay down a hard and fast rule, that executive action shall in no case be taken in respect of an offence which is sub-judice, because cases may arise when immediate action by the executive authority will be necessary and delay in taking action on the part of the executive authority till the case is finally disposed of by the Court may defeat the very purpose for which the provision is made or may endanger public safety. The Government, however, agree with the District Magistrate, Cuddapah that it is desirable to co-ordinate action by the executive authority and action by the Court as far as possible on grounds of equity, and accordingly direct:

(1) that executive action shall not ordinarily be taken by the transport authorities for offences in cases where a prosecutuion is contemplated or has been launched till the case is disposed of by the Court:

p.t.o.

(2) if, however, the transport authority considers that the circumstances of the case are such that swift action is necessary and that any delay in taking such action will defeat the purpose thereof or will endanger the public safety, the transport authority may pass interim orders suspending the licence or permit, pending the decision of the court; and

(3) when executive action has been taken in respect of an offence for which the offender or offenders are proceeded against in a Court, the Court shall be informed as early as possible of the executive action taken, in order to enable the Court to decide the quantum of punishement after taking into account the action already taken by the transport authority. Care shall be taken to see that the communication to the Court is not made directly but through the proper channel, that is to say, by a representation made by the Public Prosecutor concerned.

3. The Central Road Traffic Board is requested to issue suitable instructions to all transport authorities in the matter.

(By order of His Excellency the Governor)

PULLA REDDI,
Secretary to Government.

To
The Secretary, Central Road Traffic Board, with enclosures.
The Inspector-General of Police.
The Commissioner of Police.
The District Magistrate, Cuddapah.
All District Magistrates.
All Regional Transport Officers.
The Collectors and Additional District Magistrates of North Arcot, Chingleput, Anantapur, Bellary, Chittoor and Tirunelveli.

True Copy/

Superintendent
Madras Record Office.

v.v.1/8.